

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CM-17495-CWP-2022 in/and
CWP-4188-2018 (O&M)
Date of decision: 14.11.2022**

Varsha Kakkar

...Petitioner

VS

Haryana Staff Selection Commission

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.Divay Sarup, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

CM-17495-CWP-2022

This is an application seeking direction to the respondents to produce the experience certificates of the selected candidates. Further, application for seeking information under RTI Act, appeals made to First Appellate Authority and reply thereto, second appeal to State Information Commissioner dated 17.04.2018 and order dated 03.12.2018 passed by State Information Officer, Haryana contained at Annexure P-12 (Colly.) and Annexure P-13 (Colly.) is sought to be placed on record.

To the extent of placing on record documents contained at Annexure P-12 (Colly.) and Annexure P-13 (Colly.), prayer is allowed. However, *qua* the remaining prayer, after hearing

arguments for sometime on the application, it is deemed more appropriate that main case itself, which is already fixed for today, is heard, instead of rendering piecemeal decision.

Application stands disposed of, accordingly.

Main case

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari seeking to quash announcement dated 07.02.2018 (Annexure P-6) and announcement dated 14.02.2018 (Annexure P-7) whereby the candidature of the petitioner for the post of Supervisor (Female) was rejected for the purpose of interview without disclosing the result.

2. While issuing notice of motion. Rajiv Narain Raina, J. (as he then was in this Court) passed following order dated 21.02.2018:-

“Photocopy of the OMR Sheet at p.62 of the paper book shows smudging and nothing can be said either way as to the self-assessment of the petitioner that she secured 112 marks as against the cut off marks 106. The original has to be seen before final decision can be taken.

Notice of motion.

On the asking of the Court, Mr. Harish Rathee, Sr. DAG, Haryana accepts notice and waives service on the respondent. He will produce the original OMR sheet on the next date of hearing together with the calculation of marks. It would help if the set of questions is also produced with the answer key.

Mr. Sarup to supply two sets of the paper-book to Mr. Rathee during the course of the day.

The interview is fixed for tomorrow. The second announcement was declared on 14.02.2018 leaving just enough time to approach the Court.

Meanwhile, the petitioner would be provisionally interviewed at her own risk without equity settling in her favour by virtue of this interim order. Her result be kept in sealed cover till further orders.

It may be recorded that in case, the calculation of the petitioner is found to be incorrect then she will be saddled with exemplary costs.

List again on 27.03.2018.

A copy of this order be given to Mr. Sarup attested by the Bench Secretary.”

3. Subsequently yet another order dated 31.01.2019 was passed by the same learned Judge as below:-

“Short reply filed in Court today. The reply is not on affidavit. However, contents have been read. The same is taken on record.

In paragraph 6 of the reply, the Commission admits that on the reverse of the question booklets (OMR sheets), the condition of deduction of marks for wrong answers was incorporated inadvertently. The ramifications of the statement are disturbing to the mind of the Court. Today an oral argument has been addressed by Ms.Shruti that at the time of examination, an announcement was made that there would be no negative marking. An affidavit be filed by the Commission stating full facts including number of candidates who appeared in the examination, number of applicants for the post of Supervisors (Female), number of successful candidates in each category.

Meanwhile, the petitioner(s) would sit with the Secretary of the Commission with their OMR sheets and answer keys and calculate the number of marks by both methods, one by negative marking and the other without negative marking. Petitioner(s) to appear before the Commission on 1.2.2019 at 3.00 P.M.

List again on 8.2.2019.

To be shown in the Urgent List.

A photocopy of this order be placed on the record of the connected file.”

4. In the aforesaid background, I have heard learned counsel for the parties and gone through the case file.

5. Pursuant to order dated 18.08.2022 passed by this Court, result of the petitioner has been brought to the Court, which has been opened and the same is taken on record and marked as Annexure

‘A’. Perusal of the same reveals that petitioner has got 100 marks in the written examination and 20 marks in interview.

6. To the extent of petitioner’s grievance that she was not interviewed also stands mitigated, as she has already been interviewed and accorded marks as per her performance (Annexure ‘A’). Regarding her prayer that result was not made known to her also stands satisfied, as she has been disclosed that she has got 100 marks in written examination and 20 marks in interview.

7. To the extent that writ petition makes the averments that persons who have scored lesser marks than the petitioner, have been selected, is also factually incorrect. On a Court query, learned State counsel submits that no person, who has got lesser marks in the category petitioner had applied in, has been given any appointment.

8. It is not for this Court to sit in judgment over the written examination marks awarded by the Haryana Staff Selection Commission (HSSC) as against self-proclamation of the petitioner that after self assessment she has secured higher than the marks awarded by the HSSC.

9. Result of the petitioner, who has concededly scored lesser marks than the last selected candidate, is not under challenge in the instant petition. It seems that petitioner was under the wrong impression at the time of filing the instant petition that based on her performance, she would qualify.

10. No grounds are made out to interfere. Dismissed.

However, petitioner is at liberty to challenge the result, if so advised.

- 11. Pending applications, including application for impleadment and to amend the petition, shall also stand disposed of.
- 12. Dismissed with aforesaid liberty.

(ARUN MONGA)
JUDGE

November 14, 2022
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No